

Message Text

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ACTION EUR-10

INFO OCT-01 SS-14 ADP-00 NSC-10 NSCE-00 CIAE-00 INR-10

NSAE-00 RSC-01 L-02 PM-03 DODE-00 PRS-01 IO-03 RSR-01

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R 301400 Z APR 73

FM AMEMBASSY DUBLIN

TO SECSTATE WASHDC 4609

INFO AMEMBASSY LONDON

AMCONSUL BELFAST

C O N F I D E N T I A L DUBLIN 0551

LIMDIS

NOFORN

E. O. 11652: XGDS

TAGS: PGOV, EI

SUBJ: NEW CONSTITUTION BEING DRAFTED

1. BEGIN SUMMARY: GOI COMMITTEE IS PREPARING DRAFT OF NEW CONSTITUTION (PROTECT INFO). PLANS ARE STIL FLEXIBLE BUT INCLUDE COORDINATING DRAFT WITH FIANNA FAIL AND SUBMITTING NEW CONSTITUTION TO ELECTORATE DURING COSGRAVE GOVT' S TERM IN OFFICE. GOI BELIEVE THAT REFORMS COULD NOT BE ACHIEVED QUICKLY ENOUGH THROUGH " PIECEMAIL APPROACH," AS SWEEPING CHANGES ARE NEEDED FOR RECONCILIATION WITH NI. END SUMMARY.

2. SOURCE IN GOI TELLS US THAT COMMITTEE CHAIRED BY FINE GAEL DEPUTY JOHN KELLY HAS EMBARKED ON DRAFTING OF ENTIRELY NEW IRISH CONSTITUTION. INFO WILL REACH PUBLIC EVENTUALLY, BUT SHOULD BE CAREFULLY PROTECTED FOR TIME BEING.

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3. KELLY IS FINE GAEL CHIEF WHIP AND PARLIAMENTARY

SECRETARY (JUNIOR MINISTER) TO BOTH TAOISEACH AND MINISTER FOR DEFENSE. HE HAS JUST BEEN ELECTED TO FIRST TERM AS DEPUTY, BUT HAS HAD IMPRESSIVE CAREER AS SENATOR AND PROFESSOR OF JURISPRUDENCE. HE SHOULD BE GOOD CHOICE TO HEAD DRAFTING GROUP. HE IS ALSO EXPECTED DRAW HEAVILY ON OTHER FIRST- CLASS MINDS IN FINE GAELE AND LABOR, INCLUDING GARRET FITZGERALD (FOMIN) AND DECLAN COSTELLO (ATTORNEY GENERAL).

4. AT THIS POINT, AS FAR AS OUR SOURCE KNOWS, TIME-TABLE FOR CONSTITUTIONAL REFORM REMAINS FLEXIBLE. GOVT HOPES, HOWEVER, TO COMPLETE BASIC DRAFT WITHIN A YEAR AND TO HOLD PUBLIC REFERENDUM ON NEW CONSTITUTION DURING CURRENT TERM IN OFFICE, PERHAPS IN ABOUT FOUR YEARS. FIANNA FAIL WILL HAVE TO BECOME INVOLVED SO THAT ALL- PARTY TEXT WITH BORAD SUPPORT CAN BE PRESENTED TO COUNTRY. VEHICLE FOR COORDINATION WITH FIANNA FAIL WILL PROBABLY BE STANDING DAIL COMMITTEE FOR CONSTITUTIONAL REFORM (DUBLIN 517, MAY 5, 1972). UNFORTUNATELY, THIS COMMITTEE, THOUGH WELL-INTENTIONED, HAS BEEN SLOW- MOVING UNTIL NOW. MAIN BOTTLENECK HAS BEEN ELDERLY AND CONSERVATIVE FIANNA FAIL MEMBERSHIP, INCLUDING CHAIRMAN. FIANNA FAIL MEMBERS DO NOT WISH TO BE OBSTRUCTIVE BUT LACK COMPETENCE, ENERGY, AND SENSE OF URGENCY. THEY ARE ALSO ACUTELY AWARE OF PRECEDENTS, SUCH AS DE BALERA'S SPECIAL PRIDE IN ONE SECTION OR ANOTHER OF 1937 CONSTITUTION. NEW GOI HOPES THAT THIS PROBLEM CAN BE OVERCOME IF COMMITTEE IS PRESENTED WITH TOTALLY NEW DRAFT THAT DISREGARDS ALL PREVIOUS WORDINGS. (EMBASSY COMMENT: SOURCE'S REMARKS ON DAIL COMMITTEE SEEM ACCURATE, BUT HE MAY UNDERESTIMATE DIFFICULTY OF CHANGING FIANNA FAIL APPROACH).

5. CURRENT THINKING IS THAT NEW CONSTITUTION SHOULD BE KEPT EXTREMELY SIMPLE AND STRAIGHTFORWARD, PERHAPS ALONG LINES OF AMERICAN CONSTITUTION. ONLY BASIC CIVIL RIGHTS AND POLITICAL MECHANISMS NEED BE COVERED. AT THIS POINT, EMBOFF OBSERVED THAT MEN LIKE

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KELLY, FITZGERALD AND COSTELLO MIGHT FIND IT HARD TO RESIST TEMPTATION TO USE CONSTITUTION AS MEANS TO ADVANCE STYLISH NEW SOCIAL EXPERIMENTS, SUCH AS WORKER PARTICIPATION IN MANAGEMENT. (WE HAD JUST BEEN DISCUSSING THIS IN ANOTHER CONTEXT, SO EXAMPLE CAME IMMEDIATELY TO MIND.) SOURCE REPLIED THAT HE BELIEVED DRAFTERS WERE AWARE OF NEED TO AVOID COMPLICATION AND GIMICKRY, EVEN WHERE CAUSE MIGHT SEEM TO BE A GOOD ONE.

6. STILL PLAYING DEVIL' S ADVOCATE, EMBOFF SUGGESTED THAT AMBITIOUS CONSTITUTIONAL DRAFT MIGHT SIMPLY FURNISH AN EXCUSE TO AVOID SMALLER, MORE REALISTIC STEPS TOWARD REFORM. SOURCE REPLIED THAT THIS POINT HAD BEEN CONSIDERED BUT THAT GOI HAD DECIDED 1973 CONSTITUTION WAS TOO FULL OF SECTARIAN THINKING TO APPROACH IN PIECEMAIL FASHION. IF PIECEMAIL APPROACH WERE ADOPTED, FOR EXAMPLE, PUBLIC MIGHT WELL ACCEPT REMOVAL OF RESTRICTION OF DIVORCE-- WHICH IS CAUSING VISIBLE CIVIL- RIGHTS PROBLEMS-- BUT NOT CHANGES IN MORE DIFFICULT AREAS, SUCH AS CLAIM TO JURISDICTION OVER NI. BY STARTING FROM SCRATCH, IT MIGHT BE POSSIBLE TO CME UP WITH WHOLE CONSTITUTION THAT WOULD SIMPLY AVOID MOST SERIOUS PROBLEMS AND STILL BE ACCEPTED BY PUBLIC AS A WHOLE. SOURCE DID THINK, HOWEVER, THAT NEW APPROACH MIGHT MAKE IT NECESSARY TO DEFER ACTION ON SOME REFORMS UNTIL WHOLE PACKAGE COULD BE PRESENTED TO VOTERS. GOVT WOULD NOT WANT TO PASS MOST POPULAR REFORMS SEPARATELY, LEAVING ONLY DIFFICULT ONES FOR NEW CONSTITUTION.

7. SOURCE BELIEVED THAT OPPORTUNITIES FOR COMPLETE CONSTITUTIONAL REVISION WERE TOO GOOD TO BE MISSED. PUBLIC HAD COME TO REALIZE OVER PAST COUPLE OF YEARS THAT MANY PROVISIONS OF 1937 CONSTITUTION STOOD IN WAY OF IRISH UNITY. BOTH BRITISH AND FRIENDLY NI PROTESTANTS HAD MADE THIS POINT FREQUENTLY. (BRITISH HAD BEEN DISCREET IN THEIR URGINGS, SO AS NOT TO OFFEND HARD- LINE NORTHERN UNIONISTS, BUT BRITISH POSITION HAD BEEN MADE VERY CLEAR BOTH TO LYNCH AND COSGRAVE). ANOTHER CONSIDERATION IS THAT IRELAND IS CONFIDENTIAL

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NOW IN EC AND IS OBLIGED TO GET IN LINE WITH EUROPEAN STANDARDS ON CIVIL RIGHTS AND SOCIAL WELFARE.

8. COMMENT: THIS IS BEST EXAMPLE YET OF NEW GOVT' S AMBITIOUS APPROACH TO IRISH PROBLEMS. WE CERTAINLY ACCEPT REASONING THAT MAJOR REFORMS ARE NEEDED HERE AND THAT PIECEMAIL APPROACH COULD NOT ACHIEVE MANY OF THEM IN NEAR FUTURE. AT SAME TIME, DIFFICULTIES FACING TOTAL CONSTITUTIONAL REVISION ARE IMPOSING. IN ORDER TO SELL PACKAGE TO CONSERVATIVE ELECTORATE, THE TWO BIG PARTIES MUST BE IN TACTICAL AND SUBSTANTIVE AGREEMENT. TOTAL CHANGE WILL ALSO REQUIRE FORGETTING A GREAT DEAL OF HISTORY-- NOT SOMETHING THE IRISH DO EASILY. WE HOPE GOVT WILL RETAIN FLEXIBILITY TO FALL BACK TO " PIECEMAIL APPROACH" IF IDEAL CANNOT BE ACHIEVED. SORENSON

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